IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

WP(C).No. 11379 of 2007(D)

PETITIONER:

K.KUMARAN POTTY,
KADUTAHNATHU KIZHAKKE MADOM,
KUZHIMATHIKKAD, KOTTARAKKARA.

BY ADV. SRI.V.BHASKARAN PILLAI
SMT.S.LEELA
SRI.B.VINOD
SMT.V.JISHA RANI

RESPONDENTS:

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1. BRANCH MANAGER,
KOLLAM CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD NO.Q167, KOTTARAKKARA BRANCH,
PULAMON JN., KOTTARAKKARA.

2. KOLLAM CO-OPERATIVE AGRICULTURAL AND
RURAL DEVELOPMENT BANK LTD NO.Q167 REPRESENTED BY
ITS SECRETARY KOLLAM CO-OPERATIVE AGRICULTURAL
AND RURAL DEVELOPMENT BANK LTD NO.Q167,
KOLLAM-1.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.11379 of 2007

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Dated this the 4th day of April, 2007.

JUDGMENT

The petitioner's property was mortgaged for loan availed by his son. The property is attached vide Ext.P1. Balance arrears is around Rs.1,82,600/-. The petitioner's case is that if petitioner is allowed to sell part of the mortgaged property, petitioner can retain the balance property. I feel facility can be granted to the petitioner for settlement by arranging sale of part of the property or otherwise. The petitioner has undertaken to clear the debt on or before 30.6.2007. In view of the undertaking, the W.P. is disposed of directing the respondents to withhold sale proceedings till 30.6.2007. It is open to the petitioner to negotiate for sale of any portion of mortgaged property and he can even enter into agreement for sale. However, sale deed will be executed only after arrears are paid to the respondents either by the petitioner or by the buyer under agreement. As and when arrears are cleared, title deeds will be released by respondents for the petitioner to sell the property. However, since sale is stayed till 30.6.2007 based on petitioner's undertaking, there will be direction to the petitioner to hand over free of possession entire mortgaged properties to the

first respondent for sale in auction, if default is committed in clearing the arrears atleast by 30.6.2007, failing which any of the respondents can move this court for initiating contempt against petitioner besides taking over possession and sale of property. If petitioner makes payment as above, then there will be direction to the respondents to give eligible incentives in the form of waiver or reduction of penal interest, default interest etc.

C.N.RAMACHANDRAN NAIR
Judge

pms